

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

J. PETER DUNSTON,)	
)	
Plaintiff,)	No. 07 CV 5113
)	
v.)	Judge Lefkow
)	
R.H. LOVE GALLERIES, INC.;)	Magistrate Judge Schenkier
RICHARD H. LOVE, an individual; and)	
TOM HOSIER, an individual,)	
)	
Defendants.)	

PLAINTIFF'S MOTION TO CONFIRM ARBITRATION AWARD

NOW INTO COURT COMES Plaintiff J. Peter Dunston, by and through counsel undersigned, and respectfully submits his Motion to Confirm Arbitration Award, and hereby states the following in support of said motion:

BACKGROUND FACTS

1. On September 11, 2007, Plaintiff filed his Complaint alleging multiple causes of action against the Defendants pursuant to the consignment of the Plaintiff's painting to the Defendants.

2. Subsequently the Defendants filed their Motion to Stay the Proceedings Pending Arbitration, suggesting that the causes of action set forth in Plaintiff's complaint must be submitted to arbitration pursuant to the rules of the American Arbitration Association ("AAA"), which language was referenced in the Defendants' consignment agreement. *See* Consignment Agreement, attached hereto as Exhibit "A."

3. This Court subsequently entered an order on June 4, 2008 granting the Defendants' motion thereby staying the proceedings pending arbitration. *See* Court's June 4, 2008 Memorandum Opinion and Order, attached hereto as Exhibit "B."

4. An arbitration case was subsequently filed with the American Arbitration Association, and on October 9, 2008, an arbitrator was appointed to hear the matter. *See* AAA's October 9, 2008 letter, confirming arbitrator's appointment, attached hereto as Exhibit "C."

5. The matter was subsequently set for a final arbitration hearing on July 21, 22, and 23, 2009. *See* AAA's May 8, 2009 letter, attached hereto as Exhibit "D."

6. The arbitration hearing was subsequently started and completed on July 21, 2009.

7. After the completion of the arbitration hearing, and the filing of post-arbitration briefs, AAA issued a letter indicating that the hearing was finalized as of August 14, 2009, and requiring that the arbitrator render his decision by September 11, 2009. *See* AAA's August 14, 2009 letter, attached hereto as Exhibit "E."

8. Subsequently on August 31, 2009, the arbitrator, Howard Suskin, issued his award of arbitration in the Plaintiff's favor. *See* Award of Arbitration, attached hereto as Exhibit "F."

9. The arbitrator's award set forth the following:

"Within thirty (30) days from the date of transmittal of this Award to Parties, Respondents R.H. Love Galleries, Inc. and Richard H. Love shall pay to Claimant J. Peter Dunston the following amounts: (i) \$25,500 in actual damages; (ii) \$3,081.25 in prejudgment interest; and (iii) reimbursement of Claimant's reasonable attorney's fees in the amount of \$65,396. The total amount due to Claimant from Respondents R.H. Love Galleries, Inc. and Richard H. Love therefore is \$93,977.25, for which R.H. Love Galleries, Inc. and Richard H. Love are jointly and severally liable."

The administrative fees and expenses of the American Arbitration Association totaling \$2,550.00 shall be borne by Respondents R.H. Love Galleries, Inc. and Richard H. Love, and the compensation and expenses of the arbitrator totaling \$10,062.50 shall be borne by R.H. Love Galleries, Inc. and Richard H. Love. Therefore, R.H. Love Galleries, Inc. and

Richard H. Love shall be liable jointly and severally to reimburse Claimant J. Peter Dunston the sum of \$7,581.25, representing that portion of said fees and expenses in excess of the apportioned costs previously incurred by Claimant.”

10. Plaintiff is therefore entitled to confirmation of the Arbitration Award and entry of judgment in conformity with the award pursuant to Sections 9 and 13 of the Federal Arbitration Act.

WHEREFORE, Plaintiff, J. Peter Dunston, respectfully requests that the Court enter an order (i) confirming the arbitration award against Respondents R.H. Love Galleries, Inc. and Richard H. Love jointly and severally, (ii) entering judgment in favor of Plaintiff consistent with the amounts set forth in the arbitration award, plus post-judgment interest from the time of the entry of the arbitration award, (iii) awarding Plaintiff his attorney’s fees and costs incurred in bringing this motion, and (iv) providing Plaintiff with all other relief which this Court deems just and equitable.

Respectfully submitted,

/s/ Peter H. Honigmann

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